

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to amend Sections 25.15, 25.18, 25.19, 25.21, and 25.22 in Chapter 1, Division 1, Article 2.1 of Title 13, California Code of Regulations, Employer Testing Program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., SEPTEMBER 19, 2005, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by section 1651 of the Vehicle Code, in order to implement, interpret or make specific sections 12804.9 and 15250 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations (CFR) and Vehicle Code Section 12804.9 and 15250 to use third party testers to conduct the commercial behind the wheel driving test, under specified conditions. Included among these conditions are the requirements that the tests administered by the third party are the same as those that would otherwise be given by the department, and the third party examiners meet the same qualification and training standards as State examiners.

The Employer Testing Program is a voluntary federal and state regulated program that allows States to utilize a third-party tester to conduct the drive test portion of the commercial driver license test for Class A, Class B, and the non-commercial Class A and B firefighter restricted licenses. The department defines third-party testers as "Employers," requiring an employer-employee relationship between the company and the drivers that they intend to certify at the time of training, testing, and certification.

The amendment of the existing regulations will provide the department with a mechanism for ensuring that all examiners who conduct driving tests in the Employer Testing Program maintain the evaluation skills necessary for adequately assessing the driving ability of the drivers taking the drive test. This ensures that only proficient drivers are granted class A and B driver licenses based on their party testing.

Emergency regulations were adopted by the department and approved by the Office of Administrative Law on March 30, 2005, to amend sections 25.15, 25.18, 25.19, 25.21, and 25.22, Title 13, Division 1, Chapter 1, Article 2.1, California Code of Regulations. The regulations establish testing minimums for third party examiners and increase the examiner training class fee. This proposal will make the emergency regulations permanent.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: Minimal impact to state agencies because of low participation in the program.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The proposed regulatory action may affect small businesses and entities with little or no certification activity on a yearly basis. Examiners working exclusively for these entities would be required to attend refresher training in order to resume their ability to conduct driver testing. Examiner refresher courses may be held in geographic locations that would require travel expenses that may include overnight hotel stays, airfare and rental car and other expenses.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action may affect small businesses and entities with little or no certification activity on a yearly basis. Examiners working exclusively for these entities would be required to attend refresher training in order to resume their ability to conduct driver testing. Examiner refresher courses may be held in geographic locations that would require travel expenses that may include overnight hotel stays, airfare and rental car and other expenses.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567 or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.